THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 2613 of 2006

DATED: 14-02-2006

Between:

1. Hyderbasthi Resident Welfare Society (Regd.)
rep.by its Vice President, K. Subhash and another
… Petitioners

and

Mandal Revenue Officer, Musheerabad,
Hyderabad and another … Respondents

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WRIT PETITION NO. 2613 of 2006

ORDER:

The petitioner, Hyderbusthi Resident Welfare Society, which is a registered one seeks to grant writ of Mandamus declaring the action of the respondents in demolishing the structure along with the gate on South-East exit of the colony as illegal and improper.

It is stated that there is an existing park situated in an extent of 140 square yards at Hyderbusthi and there are two small parks earmarked for the said colony, but the said parks are misused by some anti social elements and the

out siders of the colony and to safeguard the interest of the colony people and to prevent the drunkers and other anti social elements from misusing the said park, the petitioner's association has erected a gate on the south east entrance of the colony. It is stated that the petitioners also made several representations before the Commissioner of Horticulture, Hyderabad, and Chief Horticulturist, Hyderabad marking copies to the Commissioner of Hyderabad and Chief Vigilence Officer, Hyderabad and also another representation to the Additional Commissioner of Police, Traffic, Hyderabad and also to the Commissioner of Land Revenue and to the Mandal Revenue Officer, Circle – VII, Maredipali, to take necessary action for proper safety measures for developing the said park. Without taking any action on the said representations, it is stated that respondents are continuing to demolish the gate erected by the petitioners for the safety of the colony people.

On the other hand, learned counsel appearing for the respondents submits that the locality people of the petitioners colony erected a gate in the public street and objecting the same, a complaint has been filed before the Grievance Cell for removing the gate and therefore, a notice under Section 402 of the Hyderabad Municipal Corporation Act has been given for removal of the said gate. As there was no body to receive the said notice, notice has been affixed on the wall beside the gate. It is stated that the gate has been erected in the public street without obtaining any permission and therefore under Section 405 of the Act, the commissioner is empowered to erect the same.

On the other hand, learned counsel for the petitioners contended that it is the duty of the respondents to take appropriate steps to develop the public park and see that the said public park is not misused causing disturbances to the residents of the locality.

Having regard to the facts and circumstances of the case, I am not inclined to grant any relief to the petitioners in this writ petition.

Accordingly, the writ petition is disposed of opening that the action of the respondents is not illegal and improper in demolishing the structure/gate in the southeast entrance of the colony erected without obtaining any permission. However, petitioners are at liberty to file a fresh representation before the second respondent to take appropriate steps of safety measures and to

maintain the said park in the interest of the locality people and the residents to prevent the misuse of the said park and if any such fresh representation is filed, the respondents are directed to consider and dispose of the same in accordance with law within ten days from the date of receipt of the fresh representation. No order as to costs.

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V. ESWARAIAH, J.

Dated: 14-02-2006

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